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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,177	06/27/2001	Michael S. Ripley	42390P11151	4529

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EXAMINER

HO, THOMAS M

ART UNIT	PAPER NUMBER
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2132

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/893,177	<b>Applicant(s)</b> RIPLEY ET AL.	
	<b>Examiner</b> Thomas M. Ho	<b>Art Unit</b> 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 6-8, 19, 20, 31-33 and 37-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-8, 19, 20, 31-33 and 37-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. Claims 6-8, 19-20, 31-33, 37-39 are pending.
2. The amendment of 9/01/06 has been entered.

### *Response to Amendments*

3. The Examiner has considered the Applicant's amendments. The Applicant has argued: *Saito, in fact teaches away from storing the secret-keys if the management of the secret-keys is made by the user" (Column 7, lines 14-16). In Saito, therefore, the secret keys "are automatically stored in IC card, PCMCIA card, insert board or software which are not under the user's control" (Emphasis added, column 7, lines 17-18). Furthermore, the secret keys that are stored are decrypted secret keys, not encrypted secret keys.*

The Applicant's arguments have been fully considered but are moot in view of the new grounds of rejection.

Silberschatz and Galvin, "Operating System Concepts: Fifth Edition" discloses that *"the programs must be in main memory to be executed. Main memory is the only large storage area that the processor can access directly."* (page 30 last paragraph)

Additionally (page 32, paragraph 1)

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*"Main memory and the registers built into the processor itself are the only storage that the CPU can access directly. (Consider that there are machine instructions that take memory addresses as arguments, but none that take disk addresses.) Therefore, any instructions in execution, and any data being used by the instructions, must be in one of these direct-access storage devices. If the data are not in memory, they must be moved there before the CPU can operate on them."*

Because of this, any information that is processed by the client, must at some point be stored within the main memory. Saito (Column 7, lines 1-12) and (Column 8, lines 1-19) discloses that the user receives the secret keys, decrypts them, and then uses them to decrypt the content, which is rendered by the user. Consequently, both the secret key in encrypted form and the encrypted content is stored within the same storage medium (the main memory) at some point during the execution of the process.

It is understood that references should be interpreted with the broadest reasonable interpretation in light of the specification. Saito recites a content distribution system using computers that one of ordinary skill in the art would interpret to have main memory. Main memory is feature present and necessary in virtually all computers, just as an engine would be to a car. Although it is not explicitly recited that the processed encrypted key and the encrypted data content, one of ordinary skill in the art would understand that this information would be present in the memory storage before its processing. However to avoid contention of this issue, and the addition of a reference, the rejection has been written as a 103 rejection.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-8, 19-20, 31-33, 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito, US patent 09/893177 in view of Silberschatz and Galvin, "Operating System Concepts: Fifth Edition."

In reference to claim 6:

Saito discloses a method comprising:

- Receiving a request to transfer content to a customer (Column 6, lines 38-42)
- Retrieving from a content source encrypted content corresponding to the requested content, the encrypted content being encrypted by a title key, where the title key is KS1 (Column 7, line 65- Column 8, line 5)
- Obtaining a customer identifier ID associated with the customer, where the identifier is obtained with the other user information. (Column 6, lines 43-52)
- Binding the requested content to the customer ID by using the customer ID to encrypt the title key, where the requested content is bound to the ID by first using the ID to encrypt the title key, KS1. (Column 7, line 65- Column 8, line 5)

- Transferring from the content source the encrypted content and the encrypted title key to a storage medium, where the encrypted content and the encrypted title key may be accessed by the customer, where the encrypted title key is first transferred and accessed by the customer to be decrypted. (Column 6, line 61 – Column 7, line 7 et seq.) & (Column 7, line 55- Column 8, line 5)
- Storing the encrypted content and the encrypted title key on the storage medium, from which the encrypted content and the encrypted title key may be accessed by the customer. Saito (Column 7, lines 1-12) and (Column 8, lines 1-19) where the encrypted content is the encrypted watermarked data content, and where the encrypted title key is the encrypted secret key. Consequently, both the secret key in encrypted form and the encrypted content is stored within the same storage medium (the main memory) at some point during the execution of the content distribution method.

Saito fails to explicitly state that the encrypted content and the encrypted key is stored in the same storage. It would have been obvious to one of ordinary skill in the art at the time of invention to store the key and content in the memory storage, in order to allow the information to be processed and decrypted because “Main memory is the only large storage area that the processor can access directly.” Silberschatz and Galvin page 32, last paragraph.

In reference to claim 7:

Saito (Column 6, lines 53-67) discloses the method of claim 6, wherein said binding the requested content to the customer ID by using the customer ID to encrypt the title key comprises

combining the customer ID with a media key provided by the content source, where the user ID is bound to a media key, KB1 which is then used to encrypt the title key, KS1, which is then used to encrypt the title key.

In reference to claim 8:

Saito (Column 6, lines 52-60) discloses the method of claim 7, wherein said combining the customer ID with a media key comprises using a cryptographic one-way function, where the customer ID is combined with the media key using the one way hash function, MD5.

In reference to claim 31:

Saito discloses a method comprising:

- Accessing encrypted content (Column 7, line 60-67) that is stored on a storage medium (Column 8, lines 23-54) additionally storing a customer ID (Column 6, lines 48-50) associated with a customer requesting the content (Column 6, lines 35-50), a Media Key block (MKB), the information used to complete Kb1) (Column 6, lines 48-55), and the title key, KS1, (Column 6, lines 60-65) that is encrypted (encrypted title key) with a customer ID (KS1, Column 6, lines 60-65), where KB1 is the combined version of both the customer ID and the public key, KB1. (Column 6, lines 48-55), and where the content is encrypted with the title key, KS1 (Column 7, line 65 – Column 8, line 5)
- Processing the MKB to generate a Media key by using Device Keys associated with a device for using the content, where the MKB is the set of information used to create the

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Media key, KB1, and where the device keys, KS1 and KS2 associated with the device are also used for using the content. (Column 6, lines 53-67)

- Decrypting the encrypted title key to form the title key by reading a customer ID and combining the customer ID and the Media Key, where the title key, KS1 is decrypted to form the title key, encrypted using the original combined key KB1. (Column 7, lines 4-11)
- Using the title key to decrypt the encrypted content, where the title key KS1 is used to decrypt the content. (Column 8, lines 13-17)

Claims 32, 38, 41 are rejected for the same reasons as claim 8.

Claims 19 are rejected for the same reasons as claim 6.

Claims 20 are rejected for the same reasons as claim 7.

Claim 37 are rejected for the same reasons as claim 31.

In reference to claims 33 and 39:

Saito discloses fails to explicitly disclose an embodiment wherein the content comprises a music title.

Saito however does disclose that audio data content used at the content to be distributed was well known in the art. (Column 1, lines 40-46)

The Examiner takes as admitted prior art that content comprising a music title was well known at the time of invention. For example, CD tracks have the names of the songs attached to them.



Additionally it is noted that Saito (Column 1, lines 40-46) discloses the content may include audio and video.

It would have been obvious to one of ordinary skill in the art at the time of invention to have content comprising a music title in order to allow the invention of Saito to be used with distributing musical content to reach out to that section of the market.

### ***Conclusion***

6. Any inquiry concerning this communication from the examiner should be directed to Thomas M Ho whose telephone number is (571)272-3835. The examiner can normally be reached on M-F from 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571)272-3799.

The Examiner may also be reached through email through [Thomas.Ho6@uspto.gov](mailto:Thomas.Ho6@uspto.gov)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-2100.

General Information/Receptionist	Telephone: 571-272-2100	Fax: 571-273-8300
Customer Service Representative	Telephone: 571-272-2100	Fax: 571-273-8300

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TMH

November 11<sup>th</sup>, 2006

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